

UNITED STATES DISTRICT COURT
DISTRICT OF GEORGIA
AUGUSTA DIVISION

SHIRLEY RADABAUGH,

Plaintiff,

- against -

CLAY TURNER REALTY GROUP LLC

Defendant.

Case No.: 1:20-CV-00058-JRH-BKE

**DECLARATION OF
SHIRLEY RADABAUGH**

I, SHIRLEY RADABAUGH, under the penalty of perjury, declares the following to be true and correct to the best of my personal knowledge:

1. I am the plaintiff in this action.

2. I am over the age of 18 years old and competent to submit this declaration in support of my motion for partial summary judgment against the defendant, Clay Turner Realty Group LLC (“Defendant” or “Clay Turner”) on liability for copyright infringement under 17 U.S.C. §§ 106, 501 (Count I of the Complaint).

3. I am a professional photographer who licenses her work in exchange for fees.

My Photograph of the Train Depot in Aiken, South Carolina – August 28, 2016

4. On or about August 28, 2016, I photographed the train depot in Aiken, South Carolina. Attached as Exhibit A is a true and correct copy of the Photograph.

5. I used my creative skill to capture the Photograph using my own selection of timing, angle, perspective, depth, and filters.

6. I created the Photograph for the purpose of depicting the train depot in Aiken, South Carolina and for making the Photograph available for commercial licensing.

7. I then made the Photograph available for commercial licensing through the website Fine Art America, at www.fineartamerica.com.

Defendant's Unauthorized Re-Publication of the Photograph

8. According to www.zoominfo.com, Clay Turner is a for-profit entity based in Lincolnton, Georgia, Texas which operates in the real estate industry. Attached as Exhibit B is a true and correct copy of a screenshot from Defendant's zoominfo.com profile, along with screenshots from Defendant's Website.

9. Defendant operates a website at the following URL www.turnerrealty.us (the "Website").

10. Defendant republished the Photograph in full-scale and full color on the Website. Attached as Exhibit C is a true and correct copy of screenshots of the Photograph as displayed on Defendant's Website.

11. Defendant did not license the Photograph from me for use on its Website, nor did Defendant have my permission or consent to publish the Photograph on its Website.

12. Defendant used the Photograph for the same purpose for which it was created, namely to depict Aiken, South Carolina.

13. Defendant used the Photograph to promote and market the sale of real estate in Aiken, South Carolina. Attached as Exhibit D are true and correct copies of screenshots from the Defendant's Website, showing the offering of real estate properties.

14. Prior to Defendant's publication of the Photograph, there was no communication between myself and Defendant.

15. Prior to the my filing of this lawsuit, there was no communication between myself and Defendant.

Registration of the Photographs – July 15, 2019

16. I am in possession of a registration certificate for the Photograph, bearing number VA 2-163-245, with effective date of July 15, 2019 (the “245 Registration”). Attached as Exhibit E is a true and correct copy of the 245 Registration.

17. The Photograph, bearing title “8.28.16.The Aiken Train Depot the blue hour after sunset” is on deposit with the Copyright Office as part of the 245 Registration.

18. I obtained the 245 Registration on July 15, 2019, within five years after first publication of the Photograph on August 28, 2016.

Dated: Aiken, South Carolina

Executed this 5th day of November 2020

Shirley Radabaugh

SHIRLEY RADABAUGH